

SERVICE PROVIDER AGREEMENT

This AGREEMENT is hereby entered into between Newport-Mesa Unified School District, Hereinafter referred to as “DISTRICT,” which includes the name service provider, and Motiv Sports of Huntington Beach, 15561 Computer Lane Unit C, Huntington Beach, CA 92649, hereinafter referred to as “CLIENT.”.

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; WHEREAS, CLIENT is in need of such special services and advice; and WHEREAS, DISTRICT is specially trained and experienced and competent to perform the special services required by the CLIENT, and such services are needed on a limited basis;

NOW, THEREFORE, the parties agree as follows:

1. Services to be provided by DISTRICT: **Charter Bus Services.**
2. Term. DISTRICT shall commence providing services under this AGREEMENT on February 3, 2019 subject to the terms and conditions of the AGREEMENT.
3. Compensation. CLIENT agrees to pay the DISTRICT for services satisfactorily rendered pursuant to this AGREEMENT a total fee according to the Price/Fee Schedules and/or Service Proposal(s) exhibits within this AGREEMENT. Prices are subject to change according to mutual agreement of DISTRICT and CLIENT at each anniversary date.
4. General Terms and Conditions. The agreement includes general terms and conditions as printed and set forth on the following pages; and the DISTRICT AND CLIENT, by executing this Agreement, agree to comply with all such attached general terms and conditions.
5. DISTRICT AND CLIENT have subscribed to this Agreement, including all exhibits as listed below:

X Exhibit A Certificate of Insurance

X Exhibit B Fee Schedule

Newport-Mesa Unified School District
Name of District

By: _____

Timothy Holcomb
Typed Name

Assistant Superintendent, Chief Operating Officer
Title

Date

Motiv Sports Huntington Beach, CA
Name of Client

By: Jason Bruton

Jason Bruton
Typed Name

Operations Manager- Surf City Marathon
Title

Taxpayer Identification Number

General Terms and Conditions

1. Expenses. CLIENT shall not be liable to DISTRICT for any costs or expenses paid or incurred by DISTRICT in performing services for CLIENT, except as identified in this AGREEMENT and approved by the CLIENT through its purchase order. The DISTRICT shall not be liable to the CLIENT any costs or expenses paid or incurred by the CLIENT in receiving services by the DISTRICT.
2. Independent Contractor. In performance of their obligation under this AGREEMENT, the parties, their officers, employees and assigns are, at all times, acting and performing as independent contractors, each to the other.
3. Materials. DISTRICT shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this AGREEMENT.
4. Termination. DISTRICT and CLIENT may, at any time, with or without cause or reason, terminate this AGREEMENT. Upon such termination, CLIENT shall COMPENSATE DISTRICT for services satisfactorily rendered to the date of termination. Written notice by either DISTRICT or CLIENT shall be sufficient to stop further performance of services by the DISTRICT. Notice shall be deemed given when received by the DISTRICT or CLIENT or no later than thirty (30) calendar days after the day of mailing, whichever is sooner.
5. Hold Harmless. To the degree the DISTRICT is negligent, DISTRICT agrees to hold harmless and indemnify CLIENT and its affiliates, directors, officers, employees, agents and representatives from and against all damages, expenses, causes of action, suits, claims, reasonable legal fees, penalties, judgments, and/or liabilities directly or indirectly attributable to the DISTRICT'S undertakings or obligations arising under this AGREEMENT. To the degree the CLIENT is negligent, CLIENT agrees to hold harmless, defend and indemnify DISTRICT and its affiliates, directors, officers, employees, agents and representatives from and against all damages, expenses, causes of action, suits, claims, penalties, judgments, reasonable legal fees and/or liabilities directly or indirectly attributable to the CLIENT'S undertakings and obligations arising under this AGREEMENT.
6. Insurance. DISTRICT and CLIENT agree to carry a comprehensive general and automobile liability insurance with limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage in a form mutually acceptable to both parties to protect CLIENT and DISTRICT against liability or claims of liability which may arise out of this AGREEMENT, and Statutory Workers' Compensation Insurance in accordance with Sections 3700 and 3800 of the California Labor Code. Upon request of both parties, DISTRICT and CLIENT will provide a copy of the policies or policy to the other party for the term of the AGREEMENT. DISTRICT and CLIENT will provide CLIENT or DISTRICT RESPECTIVELY a thirty (30) day written notice of cancellation or reduction in coverage.
7. Assignment. The obligations of the DISTRICT and CLIENT pursuant to this AGREEMENT shall not be assigned by the DISTRICT and CLIENT without prior written consent of both parties.
8. Compliance with Applicable Laws. The services completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT's general right of inspection to secure the satisfactory completion thereof. CLIENT agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CLIENT, CLIENT's business, equipment and personnel engaged in services covered by this AGREEMENT or accruing out of the performance of such services.
8. Permits/Licenses. DISTRICT and all DISTRICT's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.
9. Employment with Public Agency. DISTRICT, if an employee of another public agency, agrees that DISTRICT will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT.
10. Entire Agreement/Amendment. This AGREEMENT and any exhibits attached hereto constitute the entire agreement among the parties to it and supersedes any prior or contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both parties to the AGREEMENT.
11. Nondiscrimination. DISTRICT agrees that it will not engage in unlawful discrimination in employment of persons because of race, color, religious creed, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age of such persons.
12. Non Waiver. The failure of DISTRICT or CLIENT to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.
13. Notice. All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section.
14. Severability. If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
15. Attorney Fees/Costs. Should litigation be necessary to enforce any terms or provisions of this AGREEMENT, then each party shall bear its own litigation and collection expenses, witness fees, court costs, and attorneys' fees.
16. Governing Law. The terms and conditions of this AGREEMENT shall be governed by the laws of the State of California with venue in Orange County, California. This AGREEMENT is made in and shall be performed in Orange County, California.
17. Exhibits. This AGREEMENT incorporates by this reference, any exhibits, which are attached hereto and incorporated herein.
18. Force Majeure Clause. The parties to the Contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party (ies), provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
19. Time is of the Essence. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this contract.

20. Safety and Security. It shall be the responsibility of the DISTRICT to ascertain from the CLIENT the rules and regulations pertaining to safety, security and driving on CLIENT'S school grounds, particularly when children are present.

21. Invoicing Required Documentation:

1. Name of firm and address or person and address submitting invoice.
2. Name of school district as addressee (not school).
3. Date of invoice.
4. Number of school district purchase order (if applicable).
5. Special terms, such as discounts.
6. Description of each item, not just a stock number.
7. Quantity.
8. Unit quantity (dozen, gross, pound, etc.)
9. Unit price for each item.
10. Extended price for each item.
11. Hours and rates for labor charges.
12. Subtotals of amounts subject to sales tax.
13. Amount of sales tax (if applicable).

22. Originality of Services. DISTRICT agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, and submitted to the CLIENT and/or used in connection with his AGREEMENT, shall be wholly original to DISTRICT.

23. Copyright/Trademark/Patent. CLIENT understands and agrees that all materials produced under this AGREEMENT shall become the property of DISTRICT and cannot be used without DISTRICT'S express written permission. DISTRICT shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the DISTRICT.

24. Duty to Provide Fit Workers. DISTRICT and CLIENT shall at all times enforce appropriate discipline and good order among their employees and shall not employ or work any unfit person or anyone not skilled in providing the services required under this AGREEMENT. It shall be the responsibility of the DISTRICT and CLIENT to ensure compliance with this section. Any person in the employ of the DISTRICT or CLIENT whom DISTRICT or CLIENT may deem incompetent, unfit, intemperate, troublesome or otherwise undesirable shall be excluded from providing services under this AGREEMENT and shall not again provide services except with written consent of DISTRICT or CLIENT.

The DISTRICT and CLIENT shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The DISTRICT shall certify in writing to the governing board of the DISTRICT that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony per California Education Code Section 45125.1

25. Employment With Public Agency. DISTRICT, if an employee of another public agency, agrees that DISTRICT will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT.

26. Conflict of Interest. DISTRICT affirms that to the best of his/her knowledge, there exists no actual or potential conflict between CLIENT'S family, business, or financial interest and the services provided under this AGREEMENT, and in the event of change in either private interests or services under this AGREEMENT, any question regarding possible conflict of interest which may arise as a result of such change will be raised with the DISTRICT. CLIENT shall not be in a reporting relationship to a DISTRICT employee who is a near relative, nor shall a near relative be in a decision-making position with respect to the CLIENT.

27. Tobacco Use Policy. In the interest of public health, the DISTRICT AND CLIENT are proud to provide a healthy, tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for by the DISTRICT and CLIENT pursuant to DISTRICT'S Policy 3620. Failure of CLIENT or DISTRICT to abide with the conditions of Policy 3620 may result in the termination of this AGREEMENT.

28. Non-Waiver. The failure of the CLIENT in any one or more instances to insist upon strict performance of any of the terms of this AGREEMENT or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

29. Provision of Law Clause. Each and every provision of law clause required by law to be inserted in the AGREEMENT shall be deemed to be inserted herein and the AGREEMENT shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the AGREEMENT shall forthwith be physically amended to make such insertion or correction.

30. Compliance with Applicable Laws. The services completed herein must meet approval of the DISTRICT and shall be subject to the DISTRICT'S general right of inspection to secure the satisfactory completion thereof. CLIENT agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CLIENT, CLIENT'S business, equipment and personnel engaged in services covered by this AGREEMENT or accruing out of the performance of such services.

EXHIBIT B

Fee Schedule

Charter Bus Service, including bus and driver: Billing at the standard customer rate at \$60.00 per hour, portal to portal, this covers all district expenses.

Additional non-driver support staff member: Billing at \$40.00 per hour, which covers all district overhead including any support services.